

IN THE CIRCUIT COURT,  
SEVENTH JUDICIAL CIRCUIT,  
IN AND FOR FLAGLER COUNTY, FL

CASE NO.: 2013 CF 000763  
DIVISION: 50

STATE OF FLORIDA

vs.

JOSEPH FRANK BOVA II,

Defendant.

---

**ORDER FINDING DEFENDANT COMPETENT**  
**AS OF SEPTEMBER 7, 2021**

THIS CAUSE came before the Court on October 21, 2021, for an evidentiary hearing to determine if the defendant is mentally competent to proceed under Rule 3.210, et seq., *Fla. R. Crim. P.* (2017) and the Court, having heard argument from counsel and having considered the written report of the examining medical treatment team, observed the Defendant's demeanor and behavior at the hearing, the testimony of transport officers and being otherwise fully advised of the premises, finds:

(1) This Defendant has a long history of significant mental illness. The Defendant has been declared incompetent by this court and involuntarily committed to DCF for restorative therapy and treatment on October 30, 2014 and again on May 5, 2017. Each time, the Defendant was restored to competency and, eventually, his case proceeded to trial.

(2) On September 30, 2019, the Defendant was convicted of First-Degree Murder. That conviction was reversed and the matter was remanded back to the trial court for a new trial based on an improper denial of Defendant's request to represent himself.

(3) Immediately upon the Defendant's return for trial, the defense filed a Suggestion of Mental Incompetency to Stand Trial. The court requested a mental competency exam which was timely administered to the defendant by Dr. Roger Davis, an appropriately qualified and credentialed medical expert with prior knowledge of the Defendant's past mental health issues and evaluations. Dr. Davis found the Defendant to be mentally incompetent to proceed and Dr. Davis' significant findings were summarized in a written report dated April 11, 2021. Based on those findings, along with the observations of the Court, interactions with the Defendant, additional evidence and arguments of counsel, the Defendant was again found incompetent on April 13, 2021, and involuntarily committed to DCF for restorative therapy and treatment.

(4) The Defendant was eventually admitted to the North Florida Evaluation and Treatment Center (NFETC) on May 21, 2021 and immediately began restorative treatment. By

September 7, 2021, his treatment team opined that the Defendant was psychiatrically stable and competent to proceed. In making this finding, the treatment team stressed that:

**“Maintain Mr. Bova on his current medication: Zyprexa Zydis 10 mgs PO BID for schizophrenia. It should be emphasized that maintenance of his competence and psychiatric stability are dependent on compliance with the prescribed medication regiment.”**

The team’s recommendations regarding continued compliance with the prescribed medication regiment is the only recommendation in the report to appear in bold face type, highlighting the critical importance of this recommendations. The Defendant’s compliance with his prescribed medication regiment has been an ongoing problem in the past.

This most recent written report from the treatment team addressing the elements required under Rule 3.211(c) has been considered and accepted by this court. Neither side offered other evidence to contest the opinions of NFETC’s treatment team.

(5) A Status Hearing on competency was held on October 21, 2021 and the Defendant was transported to Flagler County for this hearing. Two issues of great concern were raised at the hearing. First, the jail staff and the transport officers reported to the Court that the Defendant refused to take his prescription medication. The Defendant admitted this refusal and past experience with the Defendant suggests that his refusal to take his prescription medication will likely extend into the future. Second, the Defendant stated that he was “incompetent” to proceed. The defendant’s demeanor and behavior at the hearing and before the court suggested that the Defendant may have decompensated in several important respects since his return from NFETC, corroborating reports that the Defendant refused to take his prescribed medication on the morning of his hearing, despite the strong recommendations of his treatment team. Second, when in court the Defendant was disheveled in appearance and exhibited difficulty or unwillingness to communicate with the court or counsel. More troubling, the Defendant appeared distracted from the proceedings and responding to outside stimuli, a symptom exhibited by this Defendant in the past. In short, the defendant did not appear appropriately oriented or engaged in the proceedings and certainly was not responsive to the court and counsel.

(6) The Defendant did state during the hearing that he wanted to represent himself.

(7) Based on the issues raised on October 21, 2021, this Court again Ordered that the Defendant undergo a mental examination and that the examiner opine to the court regarding the Defendant’s competency to proceed. Because the Defendant stated that he wanted to represent himself despite his long history of significant mental illness, the examiner was also asked to consider whether the Defendant would have the mental capacity to conduct a trial without counsel.

Based on these findings, it is hereby:

ORDERED AND ADJUDGED that this Court finds that the defendant **was** mentally competent to proceed in this matter on September 7, 2021. However, when this Court conducted

the competency hearing on October 21, 2021, good cause was shown to question the Defendant's mental competency and a mental examination was appropriately ordered. This case may not proceed in this posture until the competency evaluation is completed and the Defendant is found competent to proceed.

DONE AND ORDERED in Flagler County, FL, on 17 day of November, 2021.

11/17/2021 9:47 AM  
000763



e-Signed 11/17/2021 9:47 AM 2013 C

TERENCE R. PERKINS  
CIRCUIT JUDGE

Copies to:

Office of the State Attorney – K. Mark Johnson, Esquire [eserviceputnam@sao7.org](mailto:eserviceputnam@sao7.org)

Joshua Mosley, Esquire – [mosley.joshua@pd7.org](mailto:mosley.joshua@pd7.org)